



# Alston & Bird LLP

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July 21, 2004

Handwritten signature/initials.

Certificate of Correction Branch  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Certificate**  
**JUL 28 2004**  
**of Correction**

Re: United States Patent for *BS2 Resistance Protein*  
Application No. 09/864,680; Filed May 24, 2001  
Patent No. 6,762,285; Issued July 13, 2004  
Our File 042250/234021

Sir:

It is respectfully requested that a Certificate of Correction be issued for the above-identified patent, in accordance with 37 C.F.R. §1.322. This request is made in order to correct a mistake incurred through the fault of the United States Patent and Trademark Office ("USPTO").

The mistake appearing in the patent is set forth on the Certificate of Correction enclosed herewith, with an additional copy thereof and a postal card being enclosed in accordance with the present USPTO practice. The mistake in the above-identified patent is the inclusion of a claim (Claim 2) that was cancelled by Applicants in the Amendment After Final dated July 9, 2003. Enclosed is a copy of the Amendment After Final dated July 9, 2003, showing Claim 2 as cancelled. Applicants note that the Notice of Allowability mailed on October 3, 2003 incorrectly indicated that previously cancelled Claim 2 was among the allowed claims. Applicants did not discover this USPTO error prior to the issuance of the above-identified patent.

Respectfully submitted,

David M. Saravitz  
Registration No. 55,593

DMS/wlw  
Enclosures

RTA01/2158907v1

**JUL 29 2004**

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT NO. : 6,762,285 B2  
DATED : July 13, 2004  
INVENTOR(S) : Staskawicz et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 67,

Lines 4-7, delete Claim 2.

MAILING ADDRESS OF SENDER:

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PATENT NO. 6,762,285 B2

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FORM PTO 1050 (REV. 3-82)

JUL 29 2004

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

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DATED : July 13, 2004  
INVENTOR(S) : Staskawicz et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 67,

Lines 4-7, delete Claim 2.

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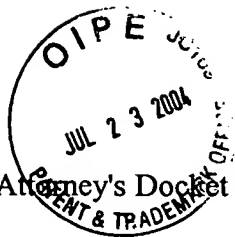
PATENT NO. 6,762,285 B2

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FORM PTO 1050 (REV. 3-82)

JUL 29 2004



**COPY**

Attorney's Docket No. 42250/234021 (5830-4A)

**PATENT**

**RESPONSE UNDER 37 C.F.R. 1.116 - EXPEDITED  
PROCEDURE - EXAMINING GROUP 1638**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Staskawicz *et al.*  
Appl. No.: 09/864,680  
Filed: May 24, 2001  
For: BS2 RESISTANCE GENE

Confirmation No.: 2026  
Group Art Unit: 1638  
Examiner: M. Ibrahim

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT AFTER FINAL ACTION  
PURSUANT TO 37 C.F.R. § 1.116  
(Formatted According to February 25, 2003, *Official Gazette* Notice)**

**INTRODUCTORY COMMENTS**

This Amendment is in response to the Final Office Action mailed April 9, 2003, and is presented in the "Revised Amendment Format" that is now permitted pursuant to the *Official Gazette* Notice of February 25, 2003.

Please amend the above-identified application according to the attached pages.

Amendments to the Claims:

1. (Previously amended) An isolated protein comprising the amino acid sequence set forth in SEQ ID NO: 3.

2. (Cancelled)

3. (Previously amended) An isolated protein encoded by a nucleic acid molecule comprising a nucleotide sequence selected from the group consisting of:

- (a) the nucleotide sequence set forth in SEQ ID NO: 1;
- (b) the nucleotide sequence set forth in SEQ ID NO: 2; and
- (c) the nucleotide sequence set forth in SEQ ID NO: 4.

4. (Cancelled)

5. (Currently amended) ~~The isolated protein of claim 2, wherein said amino acid sequence has~~ An isolated protein comprising an amino acid sequence having at least 95% sequence identity to the amino acid sequence set forth in SEQ ID NO: 3, wherein said protein comprises Bs2 protein biological activity.

**REMARKS**

Applicants respectfully acknowledge that the Examiner has determined that claims 1-5 are free of the prior art. In addition, Applicants respectfully acknowledge that the Examiner has allowed claims 1 and 3 and also has indicated that claim 5 would be allowable if rewritten in independent form.

Claim 5 has been amended to independent form. No new matter has been added by way of amendment.

Claims 2 and 4 have been cancelled without prejudice or disclaimer. Applicants expressly reserve the right to file continuing applications or take such other appropriate measures deemed necessary to protect the subject matter of the cancelled claims. While Applicants do not agree with the rejections of claims 2 and 4 as set forth in the instant Office Action, Applicants have cancelled these claims to place the instant application in condition for allowance. Applicants may elect to file one or more continuing applications that are drawn to the subject matter of the cancelled claims. Applicants will address, if necessary, the rejections of these claims in the continuing application(s).

Claims 1, 3, and 5 are pending.

Reexamination and reconsideration of the application are respectfully requested in view of the following remarks.

**The Objection to Claim 5 Should Be Withdrawn**

Claim 5 has been objected for not being in independent form. The Office Action has indicated that claim 5 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Claim 5 has been amended to independent form as recommended by the Examiner in the Office Action.

In view of the amendment, the objection to claim 5 should be withdrawn. Furthermore, given that the Examiner has indicated that claim 5 would be allowable if rewritten in independent form, Applicants submit that claim 5 should be allowed.

**COPY**

Applicants acknowledge the Examiner's indication that claims 1 and 3 are allowed.

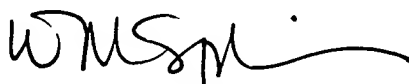
### CONCLUSIONS

In view of the amendments and remarks, Applicants respectfully submit that this application is now in condition for allowance. Early notice to this effect is solicited.

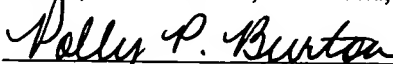
If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



W. Murray Spruill  
Registration No. 32,943

<p><b>Customer No. 00826</b> <b>ALSTON &amp; BIRD LLP</b> Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260</p>	<p>"Express Mail" mailing label number EV 184330735 US Date of Deposit July 9, 2003</p> <p>I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450</p> <p> Polly Burton</p>
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**EV184330735US**